

ORIGINAL

CC: 020/030
2462 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4906
(202) 225-2476

Congress of the United States
House of Representatives
Washington, DC 20515-4906

September 16, 2003

Mr. Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

RE: Petition P3303

RECEIVED
03 SEP 23 PM 2:46
FEDERAL MARITIME COMMISSION
SECRETARY

6TH DISTRICT OFFICES
FOND DU LAC, WI
(920) 922-1180
OSHKOSH, WI
(920) 231-6333

10
20
30
40
01
02
03
04
05

Dear Commissioners:

It is our understanding that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) entering into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the regulatory scheme governing NVOCCs has become antiquated and should be revised. We write in support of the UPS petition currently pending before the FMC.

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the U.S ocean shipping industry has changed dramatically since passage of OSRA. There has been unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

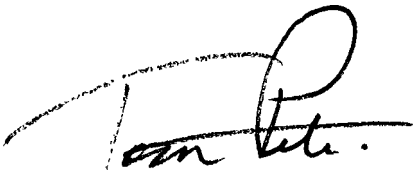
UPS operates a sophisticated, integrated, intermodal transportation network, which includes air, rail and surface and NVOCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its asset-based transportation infrastructure, which makes it unique from the companies that first raised concerns about the regulatory status of NVOCCs.

Mr. Bryant L. **VanBrakle**
Secretary, Federal Maritime Commission
September 16, 2003
Page 2

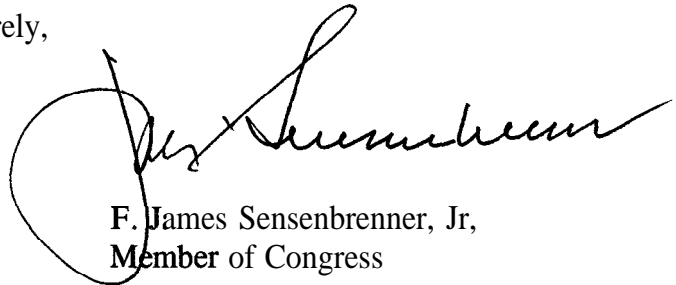
Congress granted such broad exemption authority to the FMC in order to provide a forum for consideration of petitions such as the one submitted by UPS and the current condition of the industry. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress could not have anticipated that the market would adapt to these changes in the way that it apparently has done. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

We request **that** the FMC give the UPS petition its careful consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Petri.", with a large, stylized loop at the end.

Thomas E. Petri
Member of Congress

A handwritten signature in black ink, appearing to read "F. James Sensenbrenner, Jr.", with a large, stylized loop at the beginning.

F. James Sensenbrenner, Jr.
Member of Congress